

Appl. No. : 10/753,064
Filed : January 6, 2004

REMARKS

Claims 1 through 20 stand rejected. Applicant has amended Claims 1 and 13. Thus, Claims 1-20 are presented for reconsideration and further examination in view of the foregoing amendments and following remarks.

Obviousness Type Double Patenting Rejection

Claims 1-20 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over Claims 1-13 of U.S. Patent No. 6,673,046 and Claims 1-59 of U.S. Patent No. 6,428,515. While Applicant does not acquiesce to the grounds for the rejection, Applicant hereby submits a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) in order to further prosecution. Applicant respectfully submits that the Terminal Disclaimer overcomes the obviousness type double patenting rejection.

Rejection under §35 U.S.C. §102(b) over Gordon (U.S. Patent No.4,250,880)

The Examiner rejected independent Claims 1, 5, 9, and 13 as anticipated by U.S. Patent No. 4,250,880 to Gordon. Applicant respectfully traverses this ground for rejection.

Claims 1 and 13

Amended Claim 1 is directed to a securement system that includes, *inter alia*, “a medical device having an elongated tubular body and at least first and second axially extending splines,” “an opening located in the proximal end portion and having a diameter less than a diameter of the channel,” and “the proximal and distal end portions being sized to surround at least a portion of the medical device through an arc of greater than 180 degrees.” Claim 13 recites, *inter alia*, “a medical device” having “at least first and second axially extending splines,” “an opening located in the proximal end portion and having a diameter less than a diameter of the channel,” and “the proximal and distal end portions being sized to surround at least a portion of the medical device through an arc of greater than 180 degrees about said longitudinal axis.” The applied art fails to disclose at least the recited structures.

In addition to not disclosing the claimed medical device, U.S. Patent No. 4,250,880 to Gordon does not disclose the recited retainer. For example, as is illustrated in Figure 10 of U.S. Patent No. 4,250,880 to Gordon, the cradle 12 has a channel for receiving the catheter. However,

nowhere is the channel described as having any other shaped opening other than the illustrated shape or an opening that has a "diameter less than a diameter of the channel."

The second and third embodiments of a cradle 12 are illustrated in Figures 12 and 16 and include a series of ribs 60 and walls 26. The walls 26 of both embodiments form channels, each with proximal openings that do not have a "diameter less than a diameter of the channel." Further, the ribs 60 of the embodiments illustrated in Figures 12 and 16 of Gordon do not surround at least a portion of the medical device through an arc of greater than 180 degrees.

Claims 5 and 9

Claim 5 is directed to a retainer that includes, *inter alia*, "a pair of walls disposed between the proximal and distal end portions, at least a portion of one of the walls having a lateral width less than the first and second lateral widths" with "at least one of the pair of walls being laterally movable relative to at least one of the pair of longitudinally opposed abutment surfaces so as to receive at least a portion of the medical device between the abutment surfaces." Claim 9 recites, *inter alia*, "a pair of walls disposed between the proximal and distal end portions, at least a portion of one of the walls having a lateral width less than the first and second lateral widths" and "the walls being deflectable away from a central axis of the channel." As is illustrated by the preferred, non-limiting embodiments of Figures 3 and 13, the walls 66 can deflect laterally outwardly, relative to the adjacent proximal and distal end portions 72, 74 of the retainer body 50. (See paragraph [0094]). The applied art fails to disclose at least the recited structures.

Applicant respectfully requests reconsideration of Claims 1, 5, 9, and 13. Applicant respectfully submits that dependent Claims 2-4, 6-8, 10-12, and 14-20 depend from independent Claims 1, 5, 9, and 13 and are allowable over Gordon for at least the reasons stated above in connection with the respective independent claim.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this

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application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejection set forth in the outstanding Office Action is inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole.


The undersigned has made a good faith effort to respond to all of the noted rejections and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain of if an issue requires clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve any such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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